

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAUL FOSTER,

Defendant.

NO. CRO6-0041RSL

ORDER CONTINUING TRIAL DATE

**ORDER**

The Court, having reviewed the records and files herein, enters the following order:

1. Defendant Paul Foster has been charged with Accessory After the Fact to Violent Crime in Aid of Racketeering (Murder), pursuant to 18 U.S.C. § 3. This Court has entered an Order severing defendant Foster's trial from his co-defendants, and an Order continuing the trial date of his co-defendants to March 5, 2007.

2. Defense counsel for several co-defendants acknowledge the need for a continuance. Defendant Foster, who is out of custody, has not opposed a motion to continue the trial date. The Court finds that the interests of justice require that a trial of Foster's co-defendants, all of whom are in custody, occur before Foster's trial. This ensures that the defendants in pretrial detention will be tried within 13 months of their arrest, and that their trial will not be delayed based upon the need to conduct defendant Foster's trial first.

3. The Court also finds that several weeks of delay are now excludable under the Speedy Trial Act. The following periods of delay are excluded in computing the time

1 within which the trial of an offense must commence: “[D]elay resulting from any pretrial  
 2 motion, from the filing of the motion through the conclusion of the hearing on, or other  
 3 prompt disposition of, such motion.” *18 USC 3161(h)(1)(F)*. A number of pretrial  
 4 motions have been filed in this case, including at least one motion filed by defendant  
 5 Foster, which require evidentiary hearings. Moreover, the resolution of motions filed by  
 6 other defendants may have a bearing on evidence admitted in Foster’s trial.

7 4. In light of the above, the Court finds that the ends of justice outweigh the  
 8 best interest of the public and the defendants in a speedy trial, and finds that a trial  
 9 continuance is reasonable as to defendant Foster. This case is so complex, given the  
 10 number of all defendants, and the nature of the prosecution, that it would be unreasonable  
 11 to expect the parties to adequately prepare for pretrial proceedings or the trial itself by the  
 12 January 8, 2007 trial date. *See 18 USC § 3161(h)(8)(B)(ii)*. Failure to grant a  
 13 continuance based upon the circumstances pertaining to all defendants would result in a  
 14 miscarriage of justice, in that defense counsel and the government would not have  
 15 adequate time to prepare the matter for trial. The continuance provides counsel a  
 16 reasonable amount of time necessary for effective preparation, taking into account the  
 17 exercise of diligence. *See 18 USC 3161(h)(8)(B)(i)*.

18 IT IS HEREBY ORDERED that the trial date is continued from January 8, 2007 to  
 19 June 4, 2007.

20 IT IS FURTHER ORDERED that pursuant to Title 18, United States Code,  
 21 Section 3161(h), the period of time from the date of this order to the new trial date is  
 22 excluded in the computation of time under the Speedy Trial Act.

23 DONE this 20<sup>th</sup> day of December, 2006.

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26 Robert S. Lasnik  
 27 United States District Judge  
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